

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Concepts ETI, Inc.,

Plaintiff,

v.

**ORDER**

Civil No. 09-1213 ADM/JJK

Hydro Green Energy, LLC, the United  
States, XYZ Corporation, ABC Partnership,  
John Doe and Mary Roe,

Defendants.

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Andre D. Bouffard, Esq., Downs Rachlin Martin PLLC, Burlington, VT, and Matthew A. Anderson, Esq., Mackall, Crounse & Moore, PLC, Minneapolis, MN on behalf of Plaintiff.

Craig Smyser, Esq., Raj Davvuri, Esq., Smyser Kaplan & Veselka, LLP, Houston, TX, and Joseph M. Windler, Esq., Winthrop & Weinstine, P.A., Minneapolis, MN, on behalf of Defendant, Hydro Green Energy, LLC.

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On September 24, 2009, the undersigned United States District Judge heard oral argument on Defendant Hydro Green Energy LLC's ("Defendant") Motion to Dismiss [Docket No. 3]. Defendant argues that the case should be dismissed because, pursuant to the parties' contract, the entire dispute is subject to mediation/arbitration, and, therefore, this Court lacks subject matter jurisdiction. Plaintiff consents to mediation/arbitration of its claims but argues the case should be stayed pending completion of mediation/arbitration to preserve Plaintiff's foreclosure of a mechanic's lien and to prevent Plaintiff from being forced to re-file a lien should mediation/arbitration be unsuccessful.

Plaintiff states that, pursuant to Minnesota Statute § 514.12(3), it must file its foreclosure action in court by March 2010, or it will lose its right to enforce its lien. *Id.* Defendant, a start-up company, seeks to avoid the appearance of being involved in federal litigation.

Mediation/arbitration may completely resolve this dispute; if it does not, Plaintiff has the option to re-file a lien before March 2010. Given the parties respective positions and to avoid the administrative burdens placed upon the Court to monitor the case if it is stayed, dismissal is warranted. For the reasons stated on the record at oral argument, Defendant's Motion [Docket No. 3] is **GRANTED** and the matter is **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

BY THE COURT:

s/Ann D. Montgomery  
ANN D. MONTGOMERY  
U.S. DISTRICT JUDGE

Dated: September 24, 2009.